GOVERNMENT OF INDIA
COMMERCE AND INDUSTRY
LOK SABHA

UNSTARRED QUESTION NO:330
ANSWERED ON:14.08.2007
PATENTS ON MARGOSA, BASMATI RICE AND TURMERIC
Gangwar Shri Santosh Kumar;Kusmaria Dr. Ramkrishna;Malhotra Prof. Vijay Kumar

Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

(a) whether Patents for margosa (neem), Basmati rice and turmeric (Haldi) have been owned by foreign countries;

(b) if so, the details thereof and the reasons therefor;

(c) the names of company which have obtained the said patents, country-wise;

(d) whether the multinational companies of America and Japan have staked their claims of the intellectual property rights for the germicidal, biochemical and medicinal qualities of margosa (neem);

(e) if so, the details thereof; and

(f) the reaction of the Government in regard thereto?

Answer

MINISTER OF STATE IN THE MINISTRY OF COMMERCE AND INDUSTRY (SHRI ASHWANI KUMAR)

(a) to (e): Intellectual property rights, including patents, are granted under the sovereign prerogative of countries according to their respective laws and have territorial effect only, that is, they are effective only in the country of grant. Patents are granted to persons including government and not to countries.

According to section 3(j) of the Patents Act, 1970, plants in whole or any part thereof other than micro-organisms but including seeds, varieties and species and essentially biological processes for production or propagation of plants are not patentable. As per section

3 (c) of the Act, the mere discovery of any living or non-living substance occurring in nature is also not patentable. However, patents are granted for processes used for preparation of products from plant parts which have medicinal or germicidal or insecticidal values.

No patent on Basmati rice has been granted by the Patent Office. Four patents relating to neem are owned by foreign entities, of which Spice Science Foundation, Neem Pharmeco and Rohm and Haas belong to the United States of America (USA) and Trifolio M Gmbh belongs to Germany. Two patents on activity relating to germicidal values of turmeric are owned by Johnson & Johnson Ltd. of the USA.

(f): In order to protect bio-resources, provisions have been made under Section 10(4) of the Patents Act, 1970 for mandatory disclosure of source and geographical origin of the biological material used in the invention while applying for patents in India. Non-disclosure or wrongful disclosure of the same is a ground for opposition and revocation of patent, if granted, under Section 64 of the Patent Act, 1970.

In order to protect traditional knowledge form being patented, provisions have been made under sections 25 and 64 of the Patents Act, 1970 to include anticipation of invention by available local knowledge, including oral knowledge, as one of the grounds for opposition as also for revocation. Further, as per section 3 (p) of the Act, an invention which, in effect, is traditional knowledge or which is an aggregation or duplication of known properties of traditionally known component or components is not patentable.